



IDAHO Supreme Court

JUDICIAL/ADMINISTRATIVE NEWS

APRIL 2006



Interactive Forms Go Live May 1

On May 1, 2006, coinciding with Law Day activities, the first sets of Idaho Supreme Court approved legal forms will be accessible by the public through a new interactive system. The question-and-answer format is designed to make use of the forms by self-represented persons easier than ever and to minimize incorrect or improper use of the forms. This project is the result of collaboration between the Court and Idaho Legal Aid Services. When the forms go "live" on May 1, you can see the new system at <http://www.idaholegalaid.org> or <http://www.courtselfhelp.idaho.gov>. For more information, contact Judge Michael Dennard at courtassistanceproject@idcourt.net.



New Judges, Salary Adjustments Mark Session

The Idaho Legislature adjourned April 11 after taking a number of significant steps to address caseloads in Idaho's courts and adjust judicial salaries to better reflect the current market.

Chief Justice Gerald Schroeder said the Idaho courts and legislature continue to have a strong and positive working relationship, which is reflected in the actions during the 2006 session.

Among the highlights of the session were the creation of six new judicial positions – two district judgeships and four magistrate judge positions.

In the statement of purpose accompanying SB 1407, which created district judgeships in Kootenai and Canyon Counties, it was noted that these positions will be the first new district judge positions in Idaho since 1998. No district judge positions have been added in the First Judicial District since 1997 and none in the Third Judicial District since 1996. Since that time, the judiciary has been able to keep pace with the increasing caseload by the use of senior judges and by having active judges assigned to cases in districts other than their own when

required. Idaho's increasing population since 1995, up more than 40 percent in Kootenai County and more than 51 percent in Canyon County, made the new positions critical to managing caseloads.

The Idaho Judicial Council will meet June 23rd to interview the candidates for the Third District Judge and July 7th for the candidates for the First Judicial District.

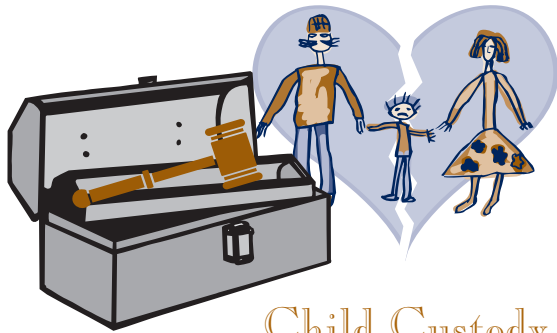
Two new Magistrate Judges will be added in both Ada and Canyon Counties. Local Magistrate Commissions are expected to announce soon the dates for recruitment and interviews to fill those positions. All the new judicial positions become effective July 1st.

The Legislature's Joint Finance and Appropriations Committee also approved, and the full Legislature agreed, to allocate \$290,000 to fully fund the senior judge program, which has been extremely important to Idaho's efforts to manage caseload increases over the last several years. Another \$60,000 was approved to assist with contracting on a regional basis for certified court interpreters and \$270,000 was allocated for youth court and status offender services related to underage alcohol and tobacco offenses.

The Legislature also recognized the need to increase judicial salaries by granting the 3% increase that was approved for all state employees. Legislators also granted an additional 3% adjustment to meet market demands. This approach was also utilized for other classes of state employees, including Idaho state police and correctional officers, whose compensation has not kept pace with the market. The changes are effective July 1st.

Senate Bill 1409 created a funding mechanism to permit the Supreme Court to purchase additional years of service for certain retiring magistrate judges. Under Idaho Code 59-1363, an employer may purchase up to 48 months of additional membership service in PERSI, at full actuarial cost, for an employee. This bill would create a Senior Magistrate Judges Fund which would be used to purchase additional years of service for retiring magistrate judges pursuant to a schedule to be established. The funds would be generated by a \$6.00 increase in civil filing fees.

Senate Bill 1408, addressing the unfunded liability for the judge's retirement fund, failed on a tie vote in the House of Representatives after passing the Senate unanimously. The issue will be the subject of further study and evaluation in cooperation with legislative leadership.



Child Custody Toolbox

Magistrate Judge Benjamin Simpson of Coeur d'Alene knew from observing hundreds of drug court and child custody cases that there had to be a better way – a saner way – to adjudicate child custody disputes. His child custody toolbox provides just such an approach.

"I always point out to parents that I'm under oath to serve the best interests of their children, but ultimately their kids are their responsibility. They brought them into the world, they know them best," Judge Simpson said. "I like to look at all the adults in the case – lawyers, parents, and courts – as responsible for the best interest of the kids."

The Judge's toolbox contains several approaches that make for a sane approach he says. "There are lots of ways to get through these cases. Most destructive is the litigation model."

Among the tools:

- 🔧 Use counselors or child development professionals to help the parents protect the best interests of their children through education and an agreement.
- 🔧 Private mediation.
- 🔧 Four way meetings.
- 🔧 Family Needs Assessment.
- 🔧 Judicial mediation.
- 🔧 Judicial settlement conference with parties and counsel, on the record.
- 🔧 Judicial arbitration.
- 🔧 Adversarial litigation.

Judge Simpson says he has successfully used what he calls "an offer of proof" where the parties and attorneys in a child custody case come into court on the record and they tell him what they think they can prove in a trial. "It is not considered evidence, but is like an opening statement and allows me to tell them how I've ruled in the past in this kind of case. In short, I can give them some guidance."

Or in other instances, the Judge says he will ask the parties to waive the rules of evidence. "I ask them to tell me what you think I need to know, give up normal question and answer approach, and no one gets cross examined. The moving party then goes first indicating what they want, why do they want it, how does it help the child and how does it provide meaningful parental contacts with the other parent?"

Then, Judge Simpson says, "Instead of a two day custody trial I can focus on what I need to hear and I can ask questions. After two hours in the courtroom we can have a very quick decision and the parties feel that they have really been heard."

Judge Simpson says that a rule will be recommended to the Supreme Court soon to set out statewide rules and procedures for the toolbox approach to child custody cases.

"We hope to come way from that with a plan to go statewide and get at least one judge in each district to try this approach," Judge Simpson said.

Districts Implement Family Violence Courts

Three new family violence courts are in the initial phase of implementation in the 6th Judicial District in Bannock County and 7th Judicial District in Bonneville and Bingham counties. The family violence courts are made possible by a grant awarded to the Idaho Supreme Court from the US Department of Justice and the Office of Violence Against Women. The grant also provides for collaboration with the Idaho Coalition Against Sexual and Domestic Violence to develop a statewide coordinated community response to domestic and sexual violence.

The coordinated community response will bring together government as well non-governmental agencies throughout the state from many disciplines and experience with domestic violence issues.

Two family violence court case managers have been hired to work with the courts and provide victim referrals and services in Bonneville and Bannock counties.

Shelley Carson joins the Supreme Court as the Statewide Domestic Violence Resource Coordinator as part of the Grant. Shelley received her Masters degree from Idaho State University in couple and family counseling. For the past two years, she has been facilitating domestic violence and adult sex offender groups for SANE Solutions in Boise. She is also a child custody mediator.

For more information about family violence courts or the coordinated community response efforts, please contact Shelley Carson at (208) 830-3379; e-mail: shelcarson@juno.com or Viki Howard at (208) 830-4329; e-mail: vikih1@cablone.net.



Justice Eismann Provides Drug Court Leadership

When then-District Court Judge Daniel Eismann took the lead in organizing and launching a Drug Court in Ada County back in 1998, there were approximately 350 such efforts underway in the United States. Today there are more than 2,500 operating drug courts, including courts in each of Idaho's judicial districts.

Current Idaho Drug Court coordinator Norma Jaeger says now-Supreme Court Justice Eismann, "laid a lot of the groundwork for the development (of Idaho drug courts) and continued to provide on-going leadership. He really brought the credibility of a judge known for having a strong approach to accountability."

Jaeger said Eismann continued to preside over operations and growth of the drug court when he came to the Idaho Supreme Court in 2000. The Justice was very involved in education and advocacy with the legislature that resulted in the state's major expansion of drug court programs in 2002.

"I think it really needs to be underscored that he has maintained his commitment to drug courts," Jaeger said. She recounted an occasion when the Justice had agreed to deliver remarks at a drug court graduation ceremony in Payette.

"The ceremony ended at 8 pm and Eismann "got in his car and drove to Twin Falls where the court was sitting the next morning. He didn't get in until very late with a full day ahead of him, but he did it because he knew that giving that presentation was important."

Justice Eismann has been nationally recognized as a hands on, operational leader who is regularly invited to give presentations, including one recently in Pennsylvania, which as a result of his comments has requested additional information from Idaho to use as a model for further efforts in that state.



Court Interpreter Training Set*

The Idaho Supreme Court, the United States District Court for the District of Idaho, and Ada County District Court has scheduled workshops for court interpreters in Boise during May and September 2006.

Idaho law requires that when a participant in a legal proceeding is not able to understand or speak English, "the court shall appoint a qualified interpreter to interpret the proceedings."

All court interpreters and those interested in court interpretation are strongly encouraged to pursue certification by attending the orientation

workshop, taking the written screening exam, and taking the certification exam.

For registration information, see the **2006 Training and Certification Testing Schedule and Registration Form** at http://www.isc.idaho.gov/interpret_sched.pdf. For further information, contact Janica Bisharat at 208-947-7414 or jbisharat@idcourts.net.

*from Supreme Court press release dated 2/27/06



National Award to Justice Trout

The National Center for State Courts (NCSC) recently announced that Idaho Supreme Court Justice Linda Copple Trout is the recipient of its 2005 Distinguished Service Award.

According to the NCSC news release, "The award is presented annually to an Appellate Court Judge who has made significant contributions to the field of judicial administration or to the work of the National Center of State Courts (NCSC)."

Mary C. McQueen, NCSC president said, "Justice Trout's strong leadership and her work have positively impacted the justice system, locally, statewide, and nationally."

The full text of the news release can be seen at:
<http://www.isc.idaho.gov/lctpress306.htm>

Congratulations Justice Trout!

Update on Smith Judicial Nomination

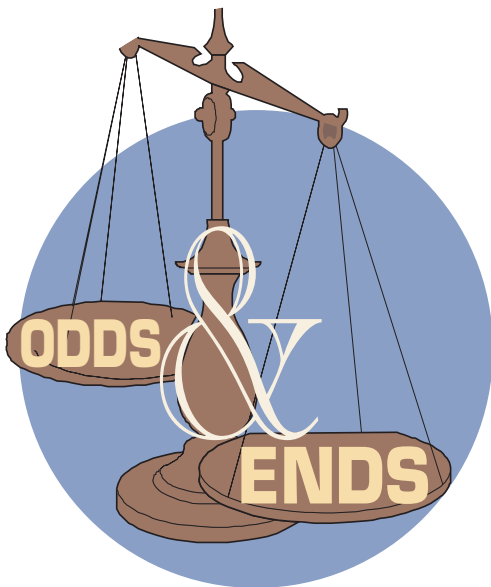
The Senate Committee on the Judiciary held a hearing on March 1, 2006 regarding the nomination of Idaho District Court Judge Randy Smith to be United States Circuit Judge for the Ninth Circuit. Accompanying Judge Smith were Idaho Senators Larry Craig and Mike Crapo. No date has been set for the committee vote. We'll keep you posted on further Senate action.

Jaeger Honored by BSU

As part of BSU's celebration of Women's History Month, Statewide Drug Court Coordinator, Norma Jaeger was honored as one of 24 women who are changing the history of Idaho. Norma was nominated by Georgia Given, director of Boise State's Idaho RADAR Network Center. Georgia said of Norma "She is respected for her intelligence, creativity, forthrightness, knowledge of the changing field..."

You may read the entire article about Norma at:
<http://www.isc.idaho.gov/links/bsuhonors-norma.pdf>

Congratulations Norma!



Updated Roster – Sexual Offender Classification Board

The certified psychosexual evaluator roster has been updated & posted online at
<http://www2.state.id.us/socb>.

Judiciary's Equipment Donated to Kids, Inc.

When the Idaho judiciary recently upgraded many of its computers, the 'old' computers became a donation to Computers for Kids.

Computers for Kids, Inc., is a non-profit organization working to "close the "digital divide" by providing economically disadvantaged youngsters with home PC's with which to equalize their educational opportunities." The organization relies on the community, including government agencies to reach its goals. To find out how to make a donation, or volunteer to help with this worthwhile endeavor, please go to the organization's website at <http://www.cfkidaho.org>.



Drug Court Graduation in Pocatello

The District Court of the 6th Judicial District, Bannock County Drug Court, presided over by Judge Randy Smith, held another Felony Drug Court graduation at the Bannock County Court House on March 21, 2006. Justice Daniel Eismann, first drug court judge in Idaho, was the guest speaker.

Judge Smith's invitation to the event indicated he believes that "we are achieving our mission of protecting society by providing alternative treatment to drug and alcohol addicted offenders thereby returning clean and sober, law-abiding citizens to the community."



Idaho Joins Drug Court Month

On March 31, 2006, Justice Gerald Schroeder signed an order resolving that "during the month of May, which is being celebrated across the United States as national Drug Court Month, Idaho's Drug Courts be

recognized for their accomplishments in each jurisdiction, and that the contributions of these courts be conveyed to the citizens of Idaho." Events during the month will acknowledge and recognize drug court activities and celebrate "the recovery of thousands of our citizens to hopeful and productive lives."

Thirty of Idaho's 44 counties are served by adult and/or juvenile drug courts. The three branches of government in Idaho have worked together since 2000 to mitigate the increase in drug related crimes, and to promote rehabilitation rather than incarceration for drug users. The program is continuously evaluated and improved. The model is also being expanded to meet the needs of the mentally ill offender. Idaho now has eight mental health courts.

Several hundred adults and juveniles have graduated from Idaho drug courts. Many babies have been born drug free because their mothers were in the drug court program.



Committee Created, Members Appointed

On March 20, 2006, Chief Justice Schroeder signed the order creating the Guardianship and Conservatorship Committee, mandated by House bill No. 131 which was enacted by the Idaho state legislature in 2005. The purpose of the committee is to develop pilot projects "designed to improve reporting and monitoring systems and processes for the protection of persons and their assets where a guardian or conservator has been appointed."

The committee will first establish, develop, and monitor a pilot project in Ada, Bannock, Bonner, Bonneville, and Payette Counties. It will also examine similar programs in other jurisdictions to determine best practices for administering and reviewing guardianships and conservatorships.

Members of the committee are:

- ⚖ Hon. Lowell Castleton, Co-Chair, Senior Judge, Project Director, Supreme Court
- ⚖ Robert Aldridge, Esq., Co-Chair
- ⚖ Suzanne Johnson, Trial Court Administrator, Sixth District

- ⚖ Corrie Keller, Director of Court Services
- ⚖ Senator Bart Davis, Majority Leader
- ⚖ Representative Debbie S. Field, Chair, House Judiciary, Rules & Administration Committee
- ⚖ Hon. Christopher Bieter, Magistrate Judge, Ada County
- ⚖ Hon. Linda Cook, Magistrate Judge, Bonneville County
- ⚖ Hon. Ronald Hart, Magistrate Judge, Caribou County
- ⚖ Hon. Debra Heise, Magistrate Judge, Bonner County
- ⚖ Betty Dressen, Payette County Clerk
- ⚖ Dede Shelton, Administrator, Guardianship Monitoring, Ada County
- ⚖ Gavin Gee, Director, Department of Finance
- ⚖ Lois Bauer, Administrator, Idaho Commission on Aging
- ⚖ Janice Stover, State President, AARP
- ⚖ James Kaufman, Esq.
- ⚖ Dennis Vorhees, Esq.
- ⚖ Angela Jensen, Esq.

New Orders & Rule Changes

For current New Orders or Rule Changes, go to <http://www.isc.idaho.gov/rulesamd.htm>

2006 Rule Changes

Cathy Derden has highlighted the rule amendments adopted by the Court and effective July 1st. The summary and complete orders are available to you at: Highlights of 2006 Rule Changes <http://www.isc.idaho.gov/highlights06.htm>

Idaho Rules of Civil Procedure (I.R.C.P.)

In Re: Correction to Amendment of March 17, 2006 of I.R.C.P. 26(b)(4) (Discovery)- March 31, 2006, effective July 1, 2006 http://www.isc.idaho.gov/rules/ircp_discovery_406.htm

In Re: Amendment of I.R.C.P. 16(k) - March 31, 2006, effective July 1, 2006 http://www.isc.idaho.gov/rules/IRCP_add.htm

In Re: Amendment of I.R.C.P. + Appendix "A" Filing Fee Schedule - March 17, 2006, effective July 1, 2006 http://www.isc.idaho.gov/rules/IRCP_rul306.htm

In Re: Amendment of I.R.C.P. - Child Support Guidelines - March 17, 2006, effective July 1, 2006 http://www.isc.idaho.gov/rules/icsg_306.htm

In Re: Amendment of I.R.C.P. - Discovery + New Rules- March 17, 2006, effective July 1, 2006 http://www.isc.idaho.gov/rules/Discovery_Rule306.htm

In Re: Amendment of Idaho Criminal Rules - March 17, 2006, effective July 1, 2006 http://www.isc.idaho.gov/rules/icr_rul306.htm





DNA TESTING

April 2006

THE IDAHO DNA DATABASE ACT OF 1996 requires that certain convictions require that the defendant provide a sample of DNA.

“§ 19-5506. Scope of law -- Offenders subject to sample collection -- Early collection of samples -- Restitution

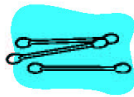
(a) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression.”

The list of those codes is as follows:

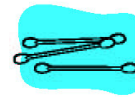
- (1) Arson (> sections 18-802 through > 18-805, Idaho Code);
- (2) Felonious administering of drugs (> sections 18-913 and > 18-914, Idaho Code);
- (3) Assault or battery upon certain personnel (> section 18-915, Idaho Code);
- (4) Removing a firearm from a law enforcement officer (> section 18-915A, Idaho Code);
- (5) Propelling bodily fluid or waste (> section 18-915B, Idaho Code);
- (6) Sexual abuse of a child under the age of sixteen years (> section 18-1506, Idaho Code);
- (7) Ritualized abuse of a child (> section 18-1506A, Idaho Code);
- (8) Injury to a child (> section 18-1501(1), Idaho Code);
- (9) Lewd conduct with minor child under sixteen (> section 18-1508, Idaho Code);
- (10) Sexual battery of a minor child sixteen or seventeen years of age (> section 18-1508A, Idaho Code);
- (11) Enticing of children (> sections 18-1509 and > 18-1509A, Idaho Code);
- (12) Sale or barter of a child (> section 18-1511, Idaho Code);
- (13) Possession of a controlled substance or dangerous weapon (> section 18-2511, Idaho Code);
- (14) False reports of explosives (> section 18-3313, Idaho Code);
- (15) Unlawful possession of a firearm (> section 18-3316, Idaho Code);
- (16) Unlawful discharge of a firearm (> section 18-3317, Idaho Code);
- (17) Unlawful possession or use of bombs or destructive devices (> sections 18-3319 and > 18-3320, Idaho Code);
- (18) Use of weapons of mass destruction (> section 18-3322, Idaho Code);
- (19) Murder, any degree (> sections 18-4001 and > 18-4003, Idaho Code);
- (20) Administering poison with intent to kill (> section 18-4014, Idaho Code);

- (21) Assault with intent to murder (> section 18-4015, Idaho Code);
- (22) Indecent exposure (> section 18-4116, Idaho Code), constituting a felony;
- (23) Kidnapping, any degree (> sections 18-4501 and > 18-4502, Idaho Code);
- (24) Forest sabotage (> section 18-4631, Idaho Code);
- (25) Mayhem (> section 18-5001, Idaho Code);
- (26) Cannibalism (> section 18-5003, Idaho Code);
- (27) Poisoning food, medicine or wells (> section 18-5501, Idaho Code);
- (28) Interstate trafficking in prostitution (> section 18-5601, Idaho Code);
- (29) Inducing a minor into prostitution (> section 18-5609, Idaho Code);
- (30) Rape (> section 18-6101, Idaho Code);
- (31) Male rape (> sections 18-6108 and > 18-6109, Idaho Code);
- (32) Sexual contact with a prisoner (> section 18-6110, Idaho Code);
- (33) Video voyeurism (> section 18-6609, Idaho Code);
- (34) Robbery (> section 18-6501, Idaho Code);
- (35) Incest (> section 18-6602, Idaho Code);
- (36) Crime against nature (> section 18-6605, Idaho Code);
- (37) Forcible sexual penetration (> section 18-6608, Idaho Code);
- (38) Removal, destruction or burning of electric lines or plants (> sections 18-6803, > 18-6804 and > 18-6805, Idaho Code);
- (39) Malicious injury to property (> section 18-7001, Idaho Code), constituting a felony;
- (40) Injuring dams, canals or other structures (> section 18-7019, Idaho Code);
- (41) Setting fire to underground workings of mines (> sections 18-7024 and > 18-7025, Idaho Code);
- (42) Sabotage (> section 18-7026, Idaho Code);
- (43) Aircraft hijacking (> section 18-7501, Idaho Code);
- (44) Assault with intent to commit aircraft hijacking (> section 18-7502, Idaho Code);
- (45) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (> section 18-7504, Idaho Code);
- (46) Malicious harassment (> sections 18-7902 and > 18-7903, Idaho Code);
- (47) Stalking in the first degree (> section 18-7905, Idaho Code);
- (48) Prohibited terrorist activities (> section 18-8103, Idaho Code);
- (49) Providing material support to terrorists (> section 18-8106, Idaho Code);
- (50) Prohibited employment of adult criminal sex offenders (> section 18-8327, Idaho Code);
- (51) Transfer of body fluid which may contain the HIV virus (> section 39-608, Idaho Code).





DNA TESTING



April 2006

To assist the court in ordering that the DNA sample be provided, a few additions will be added to the ISTARS system.

You will note in the above example that on the statutes for each under "Mandatory Requirement" the verbiage DNA upon conviction will be added, and a check will be placed in the box that indicates "DNA Collection Required".

Entering DNA upon conviction, as previously indicated will produce the red flag on the disposition screen. This is intended to be a reminder to the court that this shall be a sentencing requirement of the defendant for this crime.

In ISTARS reports there is a report that is available to provide lists of convictions of these types of convictions by date range, which may be used to provide the information to either the court or to Idaho State Police upon request.

See following screen shot:

The report will look as follows:

As the Supreme Court staff will be manually inserting this data to each court database, it will take a few weeks before all of the courts have been completed.

Please watch for these changes, and use this data to assist the sentencing judge in any manner that would be helpful, to insure that this requirement is being ordered.

NOTE: There is a form provided by the Idaho State Police which will need to be filled out and mailed in for each of these convictions. If you do not have any of these forms please contact Cyndi Hall – ISP Forensics. Fax: 208-884-7134.



JUDICIAL/ADMINISTRATIVE NEWS
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Chief Justice Gerald F. Schroeder

Justice Linda Copple Trout

Justice Daniel T. Eismann

Justice Roger S. Burdick

Justice Jim Jones

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

News items may be submitted for publication to Patricia Tobias:

451 West State St.
Boise, ID 83702
Phone: 208-334-2246
FAX: 208-947-7590
E-mail: ptobias@idcourts.net

Thanks!



Note: For the most up-to-date Judicial Calendar,
check the Judiciary's homepage at
<http://www.isc.idaho.gov/calendar.htm>

